



Reprinted  
March 6, 2001

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## HOUSE BILL No. 2119

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DIGEST OF HB 2119 (Updated March 5, 2001 6:19 PM - DI 75)

**Citations Affected:** IC 14-8; IC 14-13; IC 14-30.

**Synopsis:** Upper Wabash River basin commission. Establishes the upper Wabash River basin commission. Provides for the membership and powers of the commission. Prohibits the Wabash River heritage corridor commission from providing funding for the upper Wabash River basin commission. Provides that the commission expires on January 1, 2002 if the executives of Adams, Huntington, Jay, and Wells counties do not elect to participate in the commission before January 1, 2002.

**Effective:** July 1, 2001.

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### Ripley, Liggett, Dillon, Espich

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January 17, 2001, read first time and referred to Committee on Agriculture, Natural Resources and Rural Development.  
February 22, 2001, reported — Do Pass.  
March 5, 2001, read second time, amended, ordered engrossed.

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HB 2119—LS 7541/DI 77+



Reprinted  
March 6, 2001

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

## HOUSE BILL No. 2119

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A BILL FOR AN ACT to amend the Indiana Code concerning  
natural and cultural resources.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 14-8-2-20 IS AMENDED TO READ AS  
2       FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 20. "Basin" has the  
3       following meaning:

- 4               (1) For purposes of IC 14-30-1, the meaning set forth in  
5               IC 14-30-1-1.  
6               (2) For purposes of IC 14-30-2, the meaning set forth in  
7               IC 14-30-2-1.  
8               (3) For purposes of IC 14-30-3, the meaning set forth in  
9               IC 14-30-3-1.  
10              **(4) For purposes of IC 14-30-4, the meaning set forth in**  
11              **IC 14-30-4-1.**

12       SECTION 2. IC 14-8-2-48 IS AMENDED TO READ AS  
13       FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 48. (a) "Commission",  
14       except as provided in subsections (b) through (p), refers to the natural  
15       resources commission.

16              (b) "Commission", for purposes of IC 14-13-1, has the meaning set  
17       forth in IC 14-13-1-1.

**HB 2119—LS 7541/DI 77+**



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(c) "Commission", for purposes of IC 14-13-2, has the meaning set forth in IC 14-13-2-2.

(d) "Commission", for purposes of IC 14-13-3, has the meaning set forth in IC 14-13-3-1.

(e) "Commission", for purposes of IC 14-13-4, has the meaning set forth in IC 14-13-4-1.

(f) "Commission", for purposes of IC 14-13-5, has the meaning set forth in IC 14-13-5-1.

(g) "Commission", for purposes of IC 14-13-6, has the meaning set forth in IC 14-13-6-2.

(h) "Commission", for purposes of IC 14-14-1, has the meaning set forth in IC 14-14-1-3.

(i) "Commission", for purposes of IC 14-20-4, has the meaning set forth in IC 14-20-4-1.

(j) "Commission", for purposes of IC 14-20-11, has the meaning set forth in IC 14-20-11-1.

(k) "Commission", for purposes of IC 14-25-11, has the meaning set forth in IC 14-25-11-1.

(l) "Commission", for purposes of IC 14-28-4, has the meaning set forth in IC 14-28-4-1.

(m) "Commission", for purposes of IC 14-30-1, has the meaning set forth in IC 14-30-1-2.

(n) "Commission", for purposes of IC 14-30-2, has the meaning set forth in IC 14-30-2-2.

(o) "Commission", for purposes of IC 14-30-3, has the meaning set forth in IC 14-30-3-2.

**(p) "Commission", for purposes of IC 14-30-4, has the meaning set forth in IC 14-30-4-2.**

**(q) "Commission", for purposes of IC 14-33-20, has the meaning set forth in IC 14-33-20-2.**

SECTION 3. IC 14-8-2-198 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 198. "Participating county" has the following meaning:

(1) For purposes of IC 14-30-2, the meaning set forth in IC 14-30-2-4.

(2) For purposes of IC 14-30-3, the meaning set forth in IC 14-30-3-3.

**(3) For purposes of IC 14-30-4, the meaning set forth in IC 14-30-4-3.**

SECTION 4. IC 14-8-2-206 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 206. "Plan" has the following meaning:

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(1) For purposes of IC 14-21-1, the meaning set forth in IC 14-21-1-8.

(2) For purposes of IC 14-30-2, the meaning set forth in IC 14-30-2-5.

**(3) For purposes of IC 14-30-4, the meaning set forth in IC 14-30-4-4.**

SECTION 5. IC 14-8-2-291.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 291.5. "Upper Wabash River basin", for purposes of IC 14-30-4, has the meaning set forth in IC 14-30-4-5.**

SECTION 6. IC 14-13-6-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 20. The commission may use the fund to pay:

(1) reimbursement of the expenses of members under section 13 of this chapter;

(2) other administrative costs and expenses reasonably incurred under this chapter, including expenses for publications and postage; and

(3) costs incurred in fulfilling the directives of the Wabash River heritage corridor commission master plan, including multi-county projects and marketing and educational tools such as video tape productions, signs, and promotional literature.

**However, the commission may not use money in the fund for the upper Wabash River basin commission established by IC 14-30-4-6.**

SECTION 7. IC 14-30-4 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

**Chapter 4. Upper Wabash River Basin Commission**

**Sec. 1. As used in this chapter, "basin" refers to the upper Wabash River basin.**

**Sec. 2. As used in this chapter, "commission" refers to the Upper Wabash River basin commission established by this chapter.**

**Sec. 3. As used in this chapter, "participating county" refers to a county that joins the commission under section 7 of this chapter.**

**Sec. 4. As used in this chapter, "plan" refers to a plan described in section 13(1) of this chapter.**

**Sec. 5. As used in this chapter, "upper Wabash River basin" means the area located in Adams County, Huntington County, Jay County, or Wells County that is drained by the Wabash River, including the tributaries of the Wabash River.**



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1       **Sec. 6. (a) Subject to subsection (b), the upper Wabash River**  
 2       **basin commission is established as a separate municipal**  
 3       **corporation.**

4       **(b) If less than all of the executives of the counties that include**  
 5       **territory within the upper Wabash River basin elect to participate**  
 6       **in the commission before January 1, 2002, the commission expires**  
 7       **on January 1, 2002.**

8       **Sec. 7. Subject to section 6(b) of this chapter, the executive of a**  
 9       **county that includes territory in the upper Wabash River basin**  
 10       **may do the following:**

11       **(1) Elect to participate in the commission by designating the**  
 12       **county as a participating county.**

13       **(2) Revoke the designation.**

14       **Sec. 8. The following serve as voting members of the**  
 15       **commission:**

16       **(1) The three (3) county commissioners from each**  
 17       **participating county.**

18       **(2) The chairman of a soil and water conservation district for**  
 19       **each participating county that:**

20           **(A) is subject to IC 14-32;**

21           **(B) includes territory in a participating county; and**

22           **(C) includes territory in the basin.**

23       **(3) The county surveyor of each participating county.**

24       **Sec. 9. (a) A member of the commission may:**

25       **(1) designate another individual to perform the duties of the**  
 26       **member on the commission; and**

27       **(2) revoke the designation.**

28       **(b) Any designation or a revocation of a designation under this**  
 29       **section must be filed with the commission to be effective.**

30       **Sec. 10. (a) The commission shall annually elect from among the**  
 31       **voting members the following officers:**

32       **(1) A chairperson.**

33       **(2) A vice chairperson.**

34       **(3) A secretary.**

35       **(4) A treasurer.**

36       **(b) The officers elected under subsection (a) shall be elected and**  
 37       **shall perform the duties specified in the commission's bylaws.**

38       **(c) The commission may establish other offices and determine**  
 39       **the means of filling the offices.**

40       **Sec. 11. (a) Each member of the commission is entitled to**  
 41       **reimbursement for traveling expenses and other expenses actually**  
 42       **incurred in connection with the member's duties as provided in the**

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1 state travel policies and procedures established by the Indiana  
2 department of administration and approved by the budget agency.  
3 Money paid under this section may be paid only from the money  
4 available to the commission.

5 (b) A county may pay members of the commission the salary per  
6 diem provided by IC 4-10-11-2.1(b) for the performance of the  
7 member's duties on the commission.

8 Sec. 12. (a) The commission may do the following:

- 9 (1) Sue and be sued.
- 10 (2) Manage the commission's internal affairs.
- 11 (3) Employ staff.
- 12 (4) Enter into contracts to implement a cooperative agreement  
13 described in section 13 of this chapter.
- 14 (5) Exercise the powers of a political subdivision specified in  
15 a cooperative agreement described in section 13 of this  
16 chapter.

17 (b) This section does not exempt the commission from any  
18 statute.

19 Sec. 13. A political subdivision in a participating county may  
20 under IC 36-1-7 enter into a cooperative agreement with the  
21 commission and at least one (1) other legal entity to authorize the  
22 commission to:

- 23 (1) develop a plan to control flooding and improve drainage  
24 in that part of the basin that is described in the cooperative  
25 agreement;
- 26 (2) organize and coordinate the installation of trails along the  
27 upper Wabash River basin through partnerships with other  
28 organizations; or
- 29 (3) develop and promote good soil and water conservation  
30 practices and procedures, including erosion control and bank  
31 stabilization.

32 Sec. 14. In developing the plan, the commission shall determine  
33 the best method and manner of establishing flood control, giving  
34 consideration to the following:

- 35 (1) The reservoir method.
- 36 (2) The channel improvement method.
- 37 (3) The levee method.
- 38 (4) Flood plain regulation.
- 39 (5) All nonstructural methods.

40 Sec. 15. (a) The commission shall give the public an opportunity  
41 to participate in the development of the plan by holding public  
42 hearings at which public testimony is heard and by accepting



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1 written recommendations from the public.

2 (b) Before the plan is implemented by a political subdivision, the  
3 plan must be approved by the department of natural resources in  
4 accordance with IC 14-25 through IC 14-29.

5 Sec. 16. (a) The commission shall prepare an annual budget for  
6 the commission's operation and other expenditures under  
7 IC 6-1.1-17. The annual budget is subject to review and  
8 modification by the county board of tax adjustment of any  
9 participating county.

10 (b) The commission is not eligible for funding through the  
11 Wabash River heritage corridor commission established by  
12 IC 14-13-6-6.

13 Sec. 17. The commission may adopt rules under IC 4-22-2 to  
14 require that increased water runoff resulting from new  
15 construction be impounded on the construction site.

16 Sec. 18. The commission may appoint advisory committees  
17 consisting of individuals whose experience, training, or interest in  
18 the upper Wabash River basin enables the committees to assist the  
19 commission. A member of an advisory committee is not entitled to  
20 compensation for the member's services.

21 Sec. 19. (a) The commission, board of directors, employees, or  
22 authorized representatives of the commission acting under this  
23 chapter may:

24 (1) enter the land lying within the one hundred (100) year  
25 flood plain of any watercourse; and

26 (2) enter nonflood plain land to gain access to the flood plain  
27 land;

28 to investigate, examine, survey, or investigate suspected violations  
29 of the Indiana flood control laws.

30 (b) The commission must give sixty (60) days written notice to:

31 (1) an affected landowner;

32 (2) a contract purchaser; or

33 (3) for a municipality, the executive of the municipality;

34 before exercising the right of entry granted in this section. The  
35 notice must state the purpose of the entry and that there is a right  
36 of appeal under this section.

37 (c) An affected landowner may, within the sixty (60) day notice  
38 period under subsection (b), appeal the proposed necessity for  
39 entry to a court in the county in which the property is located. If an  
40 appeal is made, the commission may not exercise the right of entry  
41 until a final decision is made by the court.

42 (d) A person acting under this section must use due care to

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- 1      **avoid damage to crops, fences, buildings, or other structures.**

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture, Natural Resources and Rural Development, to which was referred House Bill 2119, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

LYTLE, Chair

Committee Vote: yeas 12, nays 0.

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HB 2119—LS 7541/DI 77+



## HOUSE MOTION

Mr. Speaker: I move that House Bill 2119 be amended to read as follows:

Page 5, line 41, delete "to do".

Page 5, line 42, delete "the following:" and insert **"to require that increased water runoff resulting from new construction be impounded on the construction site"**.

Page 6, delete lines 1 through 5.

(Reference is to HB 2119 as printed February 23, 2001.)

RIPLEY

## HOUSE MOTION

Mr. Speaker: I move that House Bill 2119 be amended to read as follows:

Page 3, between lines 11 and 12, begin a new paragraph and insert:

**"SECTION 6. IC 14-13-6-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 20. The commission may use the fund to pay:**

- (1) reimbursement of the expenses of members under section 13 of this chapter;
- (2) other administrative costs and expenses reasonably incurred under this chapter, including expenses for publications and postage; and
- (3) costs incurred in fulfilling the directives of the Wabash River heritage corridor commission master plan, including multi-county projects and marketing and educational tools such as video tape productions, signs, and promotional literature.

**However, the commission may not use money in the fund for the upper Wabash River basin commission established by IC 14-30-4-6."**

Page 3, line 28, delete "The" and insert **"(a) Subject to subsection (b), the"**.

Page 3, between lines 29 and 30, begin a new paragraph and insert:

**"(b) If less than all of the executives of the counties that include territory within the upper Wabash River basin elect to participate in the commission before January 1, 2002, the commission expires on January 1, 2002."**

Page 3, line 30, delete "The" and insert **"Subject to section 6(b) of**



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this chapter, the".

Page 5, line 7, after "organizations;" insert "or".

Page 5, delete lines 8 through 9.

Page 5, line 10, delete "(4)" and insert "(3)".

Page 5, delete lines 28 through 33.

Page 5, line 34, delete "17." and insert "16. (a)".

Page 5, line 36, delete "However, the" and insert "The".

Page 5, line 36, delete "not".

Page 5, line 37, after "any" insert "participating".

Page 5, delete lines 38 through 40 begin a new paragraph and insert:

**"(b) The commission is not eligible for funding through the Wabash River heritage corridor commission established by IC 14-13-6-6."**

Page 5, line 41, delete "18." and insert "17.".

Page 6, line 6, delete "19." and insert "18.".

Page 6, delete lines 11 through 33.

Page 6, line 34, delete "21." and insert "19.".

Page 7, line 1, delete "twenty-one (21)" and insert "sixty (60)".

Page 7, line 9, delete "twenty-one (21)" and insert "sixty (60)".

Page 7, line 10, delete "to the commission".

Page 7, line 11, after "entry" insert **"to a court in the county in which the property is located"**.

Page 7, line 11, after "commission" insert **"may not exercise the right of entry until a final decision is made by the court."**

Page 7, delete lines 12 through 13.

Page 7, delete lines 16 through 18.

Renumber all SECTIONS consecutively.

(Reference is to HB 2119 as printed February 23, 2001.)

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